

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROCKET MORTGAGE, LLC,

Plaintiff,

Case No. 23-cv-10583

Hon. Matthew F. Leitman

v.

CITO MECHANICAL  
DESIGN, INC., *et al.*,

Defendants.

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**ORDER (1) GRANTING PLAINTIFF ROCKET MORTGAGE, LLC'S  
MOTION TO ALTER OR AMEND JUDGMENT (ECF No. 45); (2)  
ADOPTING RECOMMENDED DISPOSITION OF REPORT AND  
RECOMMENDATION (ECF No. 52); AND (3) GRANTING ROCKET  
MORTGAGE'S MOTION TO DISMISS (ECF No. 34)**

On March 13, 2023, Plaintiff Rocket Mortgage, LLC filed this breach of contract and fraud action against Defendants Cito Mechanical Design, Inc. and Claudia Blackwood, Cito's shareholder and loan officer. (*See* Compl., ECF No. 1.) Cito never appeared in this action. Accordingly, on May 16, 2023, the Clerk of the Court entered a default against Cito. (*See* Default, ECF No. 11.) Rocket Mortgage then filed a motion for a default judgment against Cito. (*See* Mot., ECF No. 26.) The Court granted that motion in part on February 5, 2024. (*See* Order, ECF No. 39.) The Court entered a default judgment against Cito on that same day. (*See* Default Judgment, ECF No. 40.)

On May 9, 2023, Blackwood filed an answer and counterclaim against Rocket Mortgage. (*See Answer*, ECF No. 9.) On November 9, 2023, Blackwood filed an amended counterclaim in which she alleged that Rocket Mortgage committed fraud by refusing to pay her loan commission. (*See Am. Counterclaim*, ECF No. 29.)

Now before the Court are two motions: (1) Rocket Mortgage's motion to alter or amend the default judgment that the Court entered against Cito (*See Mot. to Amend*, ECF No. 45) and (2) Rocket Mortgage's motion to dismiss Blackwood's counterclaim (*see Mot. to Dismiss*, ECF No. 34).

The Court begins with Rocket Mortgage's motion to alter or amend the default judgment. Neither Defendant has filed a response to that motion. The Court has carefully reviewed the motion, and for the reasons stated in the motion, the motion is **GRANTED**. The Court will amend its February 5, 2024, default judgement to (1) provide that "Pursuant to Fed. R. Civ. P. 54(b), this Judgment shall be final against defendant Cito Mechanical Design, Inc. because there is no just reason for delay even though the case remains open against defendant Claudia Paola Blackwood."; and (2) add attorneys' fees in the amount of \$13,406.00, and costs in the amount of \$517.00.

The Court next turns to Rocket Mortgage's motion to dismiss Blackwood's amended counterclaim. The Court referred this motion to the assigned Magistrate Judge. (*See Order*, ECF No. 14.) On April 22, 2024, the Magistrate Judge issued a

report and recommendation in which he recommended that the Court grant Rocket Mortgage's motion on the basis that Blackwood failed to state an actionable claim for fraud (the "R&R"). (*See* R&R, ECF No. 52, PageID.465-468.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of his recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.*, PageID.468.)

No party has filed any objections to the R&R. Nor has any party contacted the Court seeking additional time to file objections. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). *See also Ivey v. Wilson*, 832 F.2d 950, (6th Cir. 1987) (explaining that where party fails to file "timely objections" to report and recommendation, court may accept that recommendation "without expressing any view on the merits of the magistrate's conclusions"). Likewise, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because no party filed any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommended disposition of Rocket Mortgage's motion to dismiss is **ADOPTED**.

**IT IS FURTHER ORDERED** that Rocket Mortgage's motion to dismiss (ECF No. 34) is **GRANTED**. Blackwood's counterclaim against Rocket Mortgage is **DISMISSED**.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: May 21, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 21, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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